

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

6 | PHYLLIS D. EVANS,

Case No: C 07-3794 SBA

Plaintiff,

ORDER GRANTING MOTION FOR DEFERRAL

vs.

Docket 28

9 | COMMISSIONER OF THE SSA,

Defendant.

Plaintiff originally commenced this action seeking review of a decision by the Commissioner of the Social Security Administration denying her application for supplemental disability income benefits. On September 30, 2008, the Court granted in part and denied in part Plaintiff's motion for summary judgment which reversed the Commissioner's decision and remanded the action for further proceedings consistent with the Court's ruling. (Docket 22.)

17 Plaintiff thereafter filed a Claim for Fees and Expenses Under the Equal Access to Justice
18 Act. (Docket 24). In his opposition, the Commissioner argued that the billing statements filed by
19 Plaintiff’s counsel in support of his fee request were vague and non-specific, and that certain of the
20 tasks for which compensation was being sought are not compensable under the Equal Access to
21 Justice Act. Defendant further argued that any fee award belongs to Plaintiff, not his attorney.

22 On July 30, 2009, Plaintiff's counsel filed a request to hold the motion for attorney's fees in
23 abeyance while he obtained an assignment from Plaintiff, ostensibly to address the Commissioner's
24 concern regarding whether fees could be paid to counsel directly. Defendant did not file a response
25 to Plaintiff's counsel's request. Nevertheless, Plaintiff has not to date submitted any
26 documentation to support his assertion that Plaintiff assigned to his counsel the right to recover
27 fees. Although the Court could, in its discretion, proceed with the adjudication of the fee motion as
28 currently presented, the Court will permit Plaintiff's counsel one week from the date of this Order

1 to submit a declaration and supporting documentation to establish whether Plaintiff has, in fact,
2 assigned his right to attorney's fees. Accordingly,

3 IT IS HEREBY ORDERED THAT:

4 1. Plaintiff's counsel's motion for deferral is GRANTED.

5 2. Plaintiff's counsel shall have until November 2, 2009 to file proof that Plaintiff has
6 assigned to his right to fees to Plaintiff's counsel. In the event Plaintiff timely files such proof, the
7 Commissioner may file a response by November 9, 2009. In the event Plaintiff fails to file such
8 proof by the stated deadline, the motion for attorney's fees will be deemed submitted as of
9 November 2, 2009, and no further filings will be considered by the Court in connection with the
10 motion.

11 3. This Order terminates Docket 26.

12 IT IS SO ORDERED.

13 Dated: October 26, 2009



SAUNDRA BROWN ARMSTRONG
United States District Judge

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